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Exhibit No. 14  
Date 2-6-07  
Bill No. SB 382

## **MONTANA ADVOCACY PROGRAM, INC.**

*The Civil Rights Protection & Advocacy System for the State of Montana*

February 6, 2007

The Hon. Senator Jesse Laslovich, Chair  
Senate Judiciary Committee

### **In support of SB 382, Mental Health Courts, with requests for amendment**

Dear Sen. Lazlovich and Members of the Committee,

The Montana Advocacy Program welcomes this bill. We believe that mental health courts are a promising innovation, when they are part of a diversion continuum that

- ensures that community services, including secure local crisis services, are available to people who need them;
- provides law enforcement officers with the training to recognize and respond appropriately to mental illness, and the means to divert potential offenders away from jail and directly into treatment; and
- provides individuals on probation and parole with a continuum of care, including supervision addressed to the particular needs of people with serious mental illness.

Montana does not have a coherent and functioning system of community services that would support a diversion continuum. Right now, community mental health services in most communities are stretched to the breaking point.

We welcome the leadership of judges in the mental health system, and hope that their high standards and clear expectations contribute to the momentum being generated by local and regional groups that are demanding a transformed and adequately funded community mental health system.

MAP respectfully requests that the sponsor and this committee look favorably on our suggested amendments, which we have based on the Bazelon Center for Mental Health's recommendations for mental health court design. A copy of the Bazelon Center's report is provided to the committee with this testimony.

Thank you very much for considering these remarks.

Yours truly,

  
Anita Roessmann

**TOLL FREE 1-800-245-4743**

Montana Advocacy Program  
Proposed amendments

SB 382.01 Mental Health Courts

1. Page 2, Line 6: Mental health treatment court teams should be required to include at least the judge or other hearing officer, the defense attorney; the prosecutor; and the mental health court coordinator.
2. Page 2, line 28: "Improper consumption of a drug" should not be considered substance abuse unless it is also illegal. Taking medication for serious mental illness can be very complicated.
3. Page 3, line 8: In mental health treatment, success is measured by progress toward recovery rather than compliance with any particular element of a treatment plan. Often, it isn't the patient who fails, but the medication or the treatment plan itself. Please delete "if the court finds that a mentally ill offender is performing satisfactorily in mental health treatment court, is benefitting from education, treatment and rehabilitation, has not engaged in criminal conduct and has not violated the terms and conditions of the agreement." The terms of the agreement between the court and the offender should govern how incentives are provided to the defendant. Sometimes, incentives may be appropriate even though not all of the performance measures listed in this sentence have been achieved.
4. Page 3, line 17: This paragraph should reserve the most punitive sanctions--jail, termination or contempt of court-- for offenses committed by a defendant who could have conformed to the terms of the agreement and chose not to. This determination should only be made after the court investigates the circumstances of the defendant's conduct. This distinction is important because:

The success of mental health services is gauged in outcomes, not adherence to a specific plan of care. Setbacks may have no relation to the individual's desire to comply with court orders or adherence with a treatment program. In fact, for many individuals with mental illnesses, various treatment and service options must be tried before an appropriate and effective service plan is established.

From The Bazelon Center for Mental Health Law, *The Role of Mental Health Courts in System Reform*, available at  
<http://www.bazelon.org/issues/criminalization/publications/mentalhealthcourts/>

5. Page 4, line 3: "A mentally ill offender who successfully completes the program ~~may~~ must be given credit for the time the offender served in the mental health treatment program by the judge upon disposition." Offenders may already be reluctant to participate in a program that is longer than the criminal sanction itself would be.

6. Page 5, line 9: "The assessments and recommendations must be based upon objective *medical diagnostic criteria*" is troublesome because of the implication that mental illness is entirely or largely a medical issue. Individual history, education level, social supports and resources, and other personal strengths and weaknesses are as important, or even more important, to determining an effective, individualized treatment program and should be included in the assessment and form the basis for the treatment recommendation.
7. Page 5, line 24: Length of stay in treatment will, as a practical matter, be determined in negotiations leading up to the agreement between the offender and the court, as described on page 3, line 6, so this sentence on page 5 is confusing.